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10/566,460	01/30/2006	Shuichi Tasaka	10873.1829USWO	3887
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HAMRE, SCHUMANN, MUELLER & LARSON P.C. P.O. BOX 2902-0902 MINNEAPOLIS, MN 55402			BIBBINS, LATANYA	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/566,460	TASAKA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	LaTanya Bibbins	2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 March 2009.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1, 2, 4 and 6-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1, 2, 4, 6--17 and 23 is/are rejected.
- 7) Claim(s) 18-22 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 23 March 2009 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

1. In the remarks filed on March 23, 2009, Applicant amended claims 1 and 7, cancelled claims 3 and 5, and submitted arguments for allowability of pending claims 1, 2, 4 and 6-23.

### ***Response to Arguments***

2. Applicant's arguments filed March 23, 2009 have been fully considered but they are not persuasive.

Applicant argues that the Toshiaki reference merely discloses that an outer power calibration area is located outside the program region where data is stored in contrast to claim 1 which requires that the outer power calibration area forms part of the data recordable area.

Examiner respectfully disagrees with Applicants characterization of the Toshiaki reference. While Toshiaki does in fact disclose a power calibration area located outside the program region where data is stored, Toshiaki clearly discloses two power calibration areas (PCAs), one of which is located outside the program region, the other located inside a program region (see the discussion in paragraph [0026]). As such, Examiner maintains that Toshiaki provides clear support for the claimed limitation.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**4. Claims 1, 2, 12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hiroki (US Patent Number 5,703,841) in view of Toshiaki et al. (US PGPub Number 2004/0076094 A1).**

**Regarding claim 1,** Hiroki discloses an information recording medium having a recording layer including a data recordable area for recording user information signals (see the data zone of Figure 11), a lead-in area provided on the inner periphery of the data recordable area (see the Lead-In Zone of Figure 11), an inner power calibration area provided further on the inside of the lead-in area for recording test recording patterns (see the Inner Test Zone in Figure 11), and a recording management area for recording management information related to the inner power calibration area (see the Inner Control Zone in Figure 11), wherein an outer power calibration area is provided on the outer periphery of the final point of recording of the user information signal on the recording layer (see the Outer Test Zone in Figure 11).

Hiroki, however, fails to specifically disclose, while Toshiaki discloses the outer power calibration area forms part of the data recordable area (see the discussion in paragraph [0026]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Hiroki and Toshiaki. One of ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings in order to determine the optimum recording power for

minimum and maximum recording speeds (as suggested by Toshiaki in paragraph [0026]).

**Regarding claim 2,** Hiroki further discloses the information recording medium according to claim 1, wherein: the recording layer further includes a lead-out area (see the lead-out zone of Figure 11), and the outer power calibration area is provided between the data recordable area and the lead-out area (see the location of the Outer Test Zone in relation to the Data Zone and the Lead-Out Zone in Figure 11).

**Regarding claim 12,** Hiroki further discloses the information recording medium according to claim 1, wherein an outer recording management area used for recording management information related to the outer power calibration area is provided on the outside of the data recordable area (see the Outer Control Zone in Figure 11).

**Regarding claim 15,** Hiroki further discloses an information recording and reproducing device for recording desired user information signals in the data recordable area of the information recording medium according to claim 1, comprising: a rotary drive unit that rotates the information medium (see the spindle motor, Figure 7 element 11), an optical pickup that performs information signal recording or information signal reproduction by irradiating the information recording medium with light (see the information recording/reproducing head, Figure 7 element 6), and a calibration control unit that performs calibration of irradiation power using the optical pickup by moving the optical pickup at least to either one of the inner and outer power calibration areas of the information recording medium (see the CPU, Figure 7 element 1 and the corresponding discussion in column 11 lines 28-35, column 12 lines 45—column 13 line 25).

5. **Claims 4, 8, 9 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hiroki (US Patent Number 5,703,841) in view of Toshiaki et al. (US PGPub Number 2004/0076094 A1), as applied to claim 1 above, and further in view of Ito et al. (US Patent Number 7,184,377 B2).**

Regarding claim 4, the combination of Hiroki and Toshiaki disclose the information recording medium according to claim 1, but fail to specifically disclose, while Ito discloses a plurality of recording layers (Figure 6 elements 51 and 52), recording of a user information signal on one recording layer out of two adjacently stacked recording layers among the plurality of recording layers is performed from the inner periphery to the outer periphery of the information recording medium (see the recording direction in the first recording layer 51 in Figure 6) and recording of a user information signal on the other recording layer of the two recording layers is performed from the outer periphery to the inner periphery of the information recording medium (see the recording direction in the second recording layer 52 in Figure 6) in the other recording layer, the outer power calibration area is provided on the outer periphery of the starting point of recording of the user information signal (Figure 6 element 11 in the second recording layer 52).

The primary reference, Hiroki, further discloses in the one recording layer, the outer power calibration area is provided on the outer periphery of the final point of recording of the user information signal (Hiroki Figure 11).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Ito into that of Hiroki and Toshiaki and have a multilayer recording medium. One of ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings in order to provide an information recording medium having high recording density and a large capacity (as suggested by Ito in column 1 lines 18-20).

**Regarding claim 8,** the combination of Hiroki, Toshiaki and Ito disclose the information recording medium according to claim 4. Ito further discloses wherein an nth outer power calibration area and an (n+1)th outer power calibration area are provided, respectively, in an adjacently stacked nth recording layer and (n+1)th recording layer, with an nth middle area provided on the inner periphery of the nth outer power calibration area in the nth recording layer, and an (n+1)th middle area provided on the inner periphery of the (n+1)th outer power calibration area in the (n+1)th recording layer (see the middle area of Ito in Figures 6, 12 and 16).

**Regarding claim 9,** the combination of Hiroki, Toshiaki and Ito disclose the information recording medium according to claim 8. Ito further discloses the information recording medium according to claim 8 wherein in each adjacently stacked nth recording layer and (n+1)th recording layer, the nth middle area and the (n+1)th middle area, as well as the nth power calibration area and the (n+1)th power calibration area, are arranged by shifting them, in their entirety, towards the inner periphery, such that at least a portion of the nth middle area and the (n+1)th middle area, as well as the nth power calibration area and the (n+1)th power calibration area, is positioned on the

inside of the outermost location that permits recording user information signals (see the middle area of Ito in Figures 6, 12 and 16).

**Regarding claim 23,** the combination of Hiroki, Toshiaki and Ito disclose an information recording and reproducing device for recording desired user information signals in the data recordable area of the information recording medium according to claim 4, comprising: a rotary drive unit that rotates the information recording medium (see the spindle motor of Hiroki in Figure 7 element 11), an optical pickup that performs information signal recording or information signal reproduction on a recording layer by irradiating any of the recording layers among the plurality of recording layers provided in the information recording medium with light (see the information recording/reproducing head, Figure 7 element 6), and a calibration control unit that performs calibration of irradiation power using the optical pickup by moving the optical pickup at least to either one of the inner and outer power calibration areas of the information recording medium on the recording layer where one intends to perform recording or reproduction of an information signal (see the CPU, Figure 7 element 1 and the corresponding discussion in column 11 lines 28-35, column 12 lines 45—column 13 line 25).

6. **Claims 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hiroki (US Patent Number 5,703,841) in view of Toshiaki et al. (US PGPub Number 2004/0076094 A1) and Ito et al. (US Patent Number 7,184,377 B2), as applied to claim 4 above, and further in view of Lee et al. (US PGPub Number 2008/0013425 A1).**

**Regarding claim 6,** the combination of Hiroki, Toshiaki and Ito disclose the information recording medium according to claim 4. Hiroki, Toshiaki and Ito fail to disclose, while Lee discloses wherein in an nth inner power calibration area, an (n+1)th inner power calibration area, an nth outer power calibration area, and an (n+1)th outer power calibration area provided, respectively, on an adjacently stacked nth recording layer and (n+1)th recording layer, test recording execution areas provided in the respective power calibration areas are provided such that they don't mutually overlap in the direction of stacking of the recording layers (see the location of the OPC areas in Figures 3A, 4A, 4B, 5A, 5B, 6A-6C, 7A, 7B, 8 and 9 and the discussion in the abstract and paragraph [0047]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Hiroki, Toshiaki and Ito with Lee. One of ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings in order to prevent the degradation of recording due to an influence of an OPC area in an information storage layer upon an OPC area in an adjacent information storage layer (as suggested by Ito in the abstract).

7. **Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hiroki (US Patent Number 5,703,841) in view of Toshiaki et al. (US PGPub Number 2004/0076094 A1) and Ito et al. (US Patent Number 7,184,377 B2), as applied to claim 4 above, and further in view of DVD+R 4.7 Gbytes Basic Format Specifications version 1.2, System Description (herein Non-Patent Document 1).**

**Regarding claim 7**, the combination of Hiroki, Toshiaki and Ito disclose the information recording medium according to claim 4. Hiroki, Toshiaki and Ito, however, fail to specify the direction of test recording. Non-Patent Document 1, however, discloses that the direction of test recording performed for power calibration in the inner power calibration area and in the outer power calibration area is opposite to the direction of recording of the user information signal on the one recording layer (see the discussion regarding the outer disc test zone in section 21.3).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Non-Patent Document 1 into the teachings of Hiroki, Toshiaki and Ito. One of ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings in order to comply with the DVD+R specifications.

8. **Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hiroki (US Patent Number 5,703,841) in view of Toshiaki et al. (US PGPub Number 2004/0076094 A1), as applied to claim 1 above, and further in view of DVD+R 4.7 Gbytes Basic Format Specifications version 1.2, System Description (herein Non-Patent Document 1).**

**Regarding claim 10**, the combination of Hiroki and Toshiaki disclose the outer power calibration area provided in a circular fashion (see the Outer Test Zone of Figure 11) but fail to specifically disclose, while Non-Patent Document 1 discloses wherein the outer power calibration area is provided at a distance of at least 0.2 mm on the outside

from the outermost recordable location in the data recordable area (see the location of the Outer Disc Test Zone in relation to the Data Zone in Table 7).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the location of the outer power calibration are taught by Non-Patent Document 1 into the information recording medium of Hiroki and Toshiaki. One of ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings in order to comply with the DVD+R specifications.

9. **Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hiroki (US Patent Number 5,703,841) in view of Toshiaki et al. (US PGPub Number 2004/0076094 A1), as applied to claim 1 above, and further in view of DVD+R 4.7 Gbytes Basic Format Specifications version 1.2, System Description (herein Non-Patent Document 1).**

**Regarding claim 11,** the combination of Hiroki and Toshiaki disclose the information recording medium according to claim 1, but fail to disclose wherein recording management information related to the outer power calibration area also is recorded in the recording management area. Non-Patent Document 1, however discloses the claimed invention except that it contains both an inner and outer recording management area (the Inner and Outer Disc Administration Zones).

It would have been an obvious matter of design choice to allow the inner disc administration zone of Non-patent document 1 control both the inner and outer test

zones since the applicant has not disclosed that doing so solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with both the inner and outer administration zones.

**10. Claims 13, 14, 16 and 17 rejected under 35 U.S.C. 103(a) as being unpatentable over Hiroki (US Patent Number 5,703,841) in view of Toshiaki et al. (US PGPub Number 2004/0076094 A1), as applied to claims 1 and 15 above, and further in view of Morozumi et al. (US Patent Number 2003/0185120 A1).**

**Regarding claim 13,** the combination of Hiroki and Toshiaki disclose the information recording medium according to claim 1 as noted above. Hiroki and Toshiaki, however, fail to disclose, while Morozumi discloses wherein a test recording pattern is recorded in the outer power calibration area when the data recording speed in the data recordable area is a predetermined speed or higher (see the discussion in paragraphs [0016] and [0017]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Morozumi with that of Hiroki and Toshiaki. One of ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings in order to properly define the laser power such that quality of writing data can be high as suggested by Morozumi in paragraphs [0016] and [0017].

**Regarding claim 14,** the combination of Hiroki and Toshiaki disclose the information recording medium according to claim 1 as noted above. Hiroki and

Toshiaki, however, fail to disclose, while Morozumi discloses wherein a test recording pattern is recorded in the outer power calibration area when the data recording speed in the data recordable area exceeds the recording speed at which recording was performed in the data recordable area in the past (see the discussion in paragraphs [0016] and [0017]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Morozumi with that of Hiroki and Toshiaki. One of ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings in order to properly define the laser power such that quality of writing data can be high as suggested by Morozumi in paragraphs [0016] and [0017]).

**Regarding claim 16,** the combination of Hiroki and Toshiaki disclose the information recording and reproducing device according to claim 15 as noted above. Hiroki and Toshiaki, however, fail to disclose, while Morozumi discloses a rotation control unit that controls the speed of rotation of the information recording medium by the rotary drive unit (the servo processor, Figure 1, element 22 and the discussion in paragraph [0070]), wherein the calibration control unit acquires information on the rotational speed of the information recording medium from the rotation control unit (see the discussion in paragraph [0017]) and, depending on the acquired rotational speed information, and determines in which to perform calibration of the irradiation power using the optical pickup, whether the inner power calibration area or the outer power calibration areas (see the discussion in paragraphs [0016] and [0017]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Morozumi with that of Hiroki and Toshiaki. One of ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings in order to properly define the laser power such that quality of writing data can be high as suggested by Morozumi in paragraphs [0016] and [0017]).

**Regarding claim 17,** the combination of Hiroki, Toshiaki and Morozumi disclose wherein the calibration control unit carries out irradiation power calibration using the optical pickup in the outer power calibration area when the speed represented by the rotational speed information exceeds a predetermined speed (see the discussion in Morozumi paragraphs [0016] and [0017]).

#### ***Allowable Subject Matter***

**11.** **Claims 18-22** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Claims 18-22** are allowable for the reasons indicated in the previous office action.

#### ***Conclusion***

**12. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaTanya Bibbins whose telephone number is (571)270-1125. The examiner can normally be reached on Monday through Friday 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wayne Young can be reached on 571 272-7582. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LaTanya Bibbins/  
Examiner, Art Unit 2627

/Wayne Young/  
Supervisory Patent Examiner, Art Unit 2627